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2500 SCHOOL ACCOUNTABILITY SYSTEM BASED ON STUDENT ACHIEVEMENT**2505 Statutory Authority**

16 V.S.A. § §164 (9) & (17) and 165 (b), as amended by Sec. 2, Act 64 of 2003; Sec. 96 of Act 71 of 1998 and Title I of the No Child Left Behind Act (NCLBA) of 2001, 20 U.S.C. § 6311 et seq.

2510 Statement of Purpose

The purposes of these rules are to: (1) establish a process for identifying public schools and Local Educational Agencies (LEA) in need of improving student performance – and those with outstanding performance – in relation to the content standards set forth in *Vermont's Framework of Standards and Learning Opportunities* and the *Grade Level Expectations for Mathematics and English Language Arts* associated therewith, and (2) provide for technical assistance to schools and LEAs that are not making sufficient progress and, as necessary, require further actions to ensure that students in those schools and LEAs have opportunities to meet such standards.

2515 Statement of Policy and System Overview

The accountability system set forth in these rules is designed to fulfill the student performance accountability requirements of 16 V.S.A §165.

The rules provide for a method for aggregating state assessment results into two achievement indexes, in mathematics and in English Language Arts (ELA), from a number of student performance measures over time. These indexes are developed through the assignment of points to the achievement levels of all students who take assessments in a school or LEA.

The Commissioner of Education shall annually determine whether schools and LEAs make Adequate Yearly Progress (AYP).

The Commissioner will ensure the provision of technical assistance to schools and LEAs that make insufficient progress. Appeals processes are established for accountability calculations and for consequences. A State Board review of the Commissioner's recommendations for consequences for schools and LEAs that have not made AYP for four consecutive years is also established.

2520 Definitions

The following definitions apply and may be further described in the Operations Manual.

“Academic Indicators” are student performance measures closely associated with academic achievement. Graduation Rate shall be used as the Academic Indicator for any school or LEA containing grades 9-12.

“Adequate Yearly Progress (AYP)”: A school or LEA makes AYP when it meets the applicable criteria in the following elements:

- ELA Achievement Index
- Mathematics Achievement Index
- Participation Rate
- Academic Indicator

“All Student Group” means all students enrolled in the school in the assessed grades for the full academic year.

“Alternate Assessment” means an assessment for students for whom the regular assessment or the regular assessment with accommodations is not appropriate, as determined by the IEP team.

“Annual Measurable Objective (AMO)” means the annual target on the achievement indexes.

“Assessment” means the process of measuring student achievement.

“Confidence Interval” means the statistical method used to ensure the reliability of one or more elements of the AYP decision.

“English Language Arts (ELA) Achievement Index” means the index containing combined ELA state assessment results for a school or LEA.

“Full Academic Year”: When state assessments are given in the spring, the full academic year is defined as beginning on the first Tuesday in September of that year. When state assessment are given in the fall, the full academic year is defined as beginning on the first Tuesday in September of the previous year.

“Local Education Agency (LEA)” means the school district which operates a school at elementary, middle and/or high school level, unless otherwise determined by legislation.

“Mathematics Achievement Index” means the index containing combined math state assessment results for a school or LEA.

“One Year of Exceptional Growth” means the method by which AYP is met when two years of assessment results meet the AMO without the use of a confidence interval.

“Participation Rate” means the percentage of students in a school or LEA who take state assessments; it is calculated by dividing the number of students who participate in all regular or alternate state assessments included in the accountability system by the number of students enrolled in a school or LEA on the day before the first day of the official test period.

“Safe Harbor” is a determination of whether a school or LEA has met AYP because of significant improvement in student achievement, even if this achievement has not been sufficient to meet the AMO.

“Title I” means Title I of NCLBA.

2525 Operations Manual for the Accountability System Based on Student Achievement

The Commissioner shall prepare an Operations Manual. It shall be approved by the State Board – and may be revised from time to time – through a public process pursuant to written procedures developed in advance by the Commissioner. The process shall include, at minimum:

- Notice on the Department’s Web site and in newspapers of general circulation in all areas of the state, and provision of copies to anyone who requests
- Sending the proposed Manual and any proposed revisions to educational organizations, the Legislative Committee on Administrative Rules and the No Child Left Behind Oversight Committee
- A reasonable period for written public comment
- One or more public hearings, and
- Consideration and approval of the Manual and any proposed revisions at a duly warned regular State Board meeting

The Operations Manual shall contain practices to be used by the Department in the discharge of its powers and duties under these rules and under its statutory authority that do not alter or affect substantive legal rights. It shall include, but not be limited to, the following:

- Criteria or formulae for the calculation of achievement indexes, statistically significant size of student groups for accountability determinations, selection of and criteria for meeting academic indicators, application of the participation rate, calculation of “one-year exceptional growth” and “safe harbor”, the process and criteria for Small School Reviews and the calculation of AYP for schools with anomalous grade configurations
- Criteria for permitting exemptions from assessment
- Criteria and process for public recognition for outstanding performance by schools and LEAs
- Table of Annual Measurable Objectives
- Explanation of the use of confidence intervals in AYP decisions.

2528 Technical Advisory Panel (TAP)

The Commissioner shall appoint individuals experienced in the field of educational assessment to the Technical Advisory Panel (TAP). Its members shall advise the Commissioner on technical issues related to state and local assessments, thereby ensuring that Vermont’s Comprehensive Assessment System and the Accountability System Based on Student Performance are technically and educationally sound.

2530 Committee of Practitioners (CP)

The Commissioner shall appoint representatives of local educational agencies, educators, principals, pupil services personnel, administrators and parents to the Committee of

Practitioners. The CP fulfills the federal requirement for consultation and shall advise the Commissioner on issues related to the effects of the assessment and accountability systems on schools' instructional programs, with a particular focus on equal opportunities to learn as well as other requirements for consultation under federal law.

2535 Validity of State Assessment Results and Other AYP Determination Data

The Commissioner, after consulting with TAP, CP, and the State Board, shall annually determine the validity of state assessment results and other data (e.g., graduation rate, academic indicators, and participation rate) prior to their use in making AYP determinations.

2540 Accountability for All Students and Annual Determinations

Schools and LEAs shall ensure that all students are appropriately included in calculating the participation rate. The results of all students enrolled in the school or LEA for the full academic year shall be included in the Mathematics and ELA Achievement Indexes. There shall be an annual determination of AYP for all schools and LEAs.

2545 Accountability Determinations for AYP Groups

A determination of AYP shall be made for the All Student Group in each school and LEA. AYP decisions shall also be made for each of the following groups of students, when they have statistically reliable numbers of students present in the school or LEA:

- Economically Disadvantaged Students
- Students with Disabilities
- Limited English Proficient Students
- African-American Students
- American Indian/Alaskan Native Students
- Asian Students
- Hispanic or Latino Students
- Native Hawaiian /Pacific Islander Students
- White Students

Or as otherwise may be required by federal law.

2550 Small School Review

The Commissioner shall conduct a review of additional student achievement results in small schools. The Operations Manual shall describe schools' eligibility for the reviews, the review process and how AYP determinations are made.

2555 Accountability Reports

The Commissioner shall provide accountability reports on all elements of the AYP determination and the accountability status to each school and LEA.

The Commissioner shall annually issue a public report of accountability results. The report shall include the accountability results of every public school and LEA for the applicable elements of the AYP decision.

To ensure the confidentiality of individual students' results, public reporting of any assessment or accountability result shall require a minimum of 11 students. In no case shall results be reported when personally identifiable information would be revealed or if released information could lead to identification. All public reporting shall comply with the Family and Education Rights and Privacy Act, 20 U.S.C. §1232g, 34 CFR §99.1 et seq.

The AYP report shall include the AYP determination for all groups in each school and LEA on: the Mathematics Achievement Index, the ELA Achievement Index, the Academic Indicator applicable to the grade span of the school or LEA and the Participation Rate. In addition, the identification status, including the number of years identified for improvement and the level of consequences, of each school and LEA, shall also be reported.

2560 Identification of Schools and LEAs Not Making AYP for Two Consecutive Years

Except as may be necessary to conduct Small School Reviews, a school or LEA shall be identified for school improvement if the All Student Group or any other group of statistically reliable size does not make AYP for two consecutive years in the same Achievement Index or in the Participation Rate. For the All Student Group, the school or LEA shall also be identified if the Academic Indicator criterion is not met for two consecutive years. All other AYP groups of statistically reliable size must also meet the Academic Indicator if AYP is met through “safe harbor” calculation or the one-year exceptional growth calculation.

2565 Required Actions for Identified Schools and LEAs

The Commissioner shall send written notification of the actions that the school or LEA is required to institute to address those areas that caused the identification.

2568 Appeal of Identification and/or Required Actions

To appeal the Commissioner’s determination that a school or LEA has not met AYP or has been identified for improvement or other consequences, the school board chair shall submit a written request to the State Board within 45 calendar days of receiving notification thereof. Proceedings before the Board shall be governed by State Board Rule 1230. A school board aggrieved by an order of the State Board may appeal in accord with the Vermont Rules of Civil Procedure.

2570 Exiting Identification after Two Consecutive Years of Making AYP

Any school or LEA that meets AYP for two consecutive years, in the element(s) on which they were identified, shall exit formal identification status.

2575 Commissioner’s Recommendations to the State Board for Schools or LEAs Not Making AYP for the Fourth Consecutive Time

If the school or LEA does not make AYP for the fourth consecutive year in the relevant elements, the Commissioner shall recommend to the State Board actions consistent with state and federal law.

2575.1 State Board Action on Commissioner's Recommendations and Appeal of State Board Decision

After the opportunity for hearing, the State Board shall order that one or more of the actions consistent with state and federal law be taken. The action ordered by the State Board shall be the least intrusive, consistent with the need to provide students attending the school or in the LEA with substantially equal educational opportunities.

A school board aggrieved by an order of the State Board may appeal in accord with the Vermont Rules of Civil Procedure.

2580 School and LEA Public Recognition

Any school or LEA that either closes the achievement gap between AYP groups for two or more consecutive years in a statistically significant way or exceeds their adequate yearly progress for two or more years shall receive public recognition by the State Board.

The criteria and process for such recognition shall be included in the Operations Manual.

2585 Effective Date

These rules shall be effective on September 1, 2004.